

# ARS □ CSREES □ ERS □ NASS

## *Policies and Procedures*

***Title:*** Premium Pay

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Personnel Policy and Systems Branch

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***Distribution:*** Headquarters, Areas, and Locations

This Directive provides the regulations relating to premium pay for overtime, night , Sunday, and holiday hours worked. This Directive also includes the regulations for compensatory time and the definition for religious compensatory time.

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## 1. References

- For tours of duty of employees engaged in regularly scheduled overtime, night, and Sunday work, for the effect of holidays on such schedules, and for travel and training as hours of work, see DIRECTIVE 402.1.
- For tours of duty of employees engaged in regularly scheduled work from 6 a.m. to 6 p.m. Monday through Friday, see DIRECTIVE 402.2.

## 2. Summary

This DIRECTIVE provides the regulations relating to premium pay for overtime, night, Sunday, and holiday hours worked. It includes premium pay that is regularly scheduled, i.e., Sunday, night and overtime, and premium pay that is irregularly scheduled, i.e., overtime. The DIRECTIVE also includes the regulations for compensatory time and the definition for religious compensatory time.

This DIRECTIVE incorporates the FEPCA of 1990 which said that under FLSA, hours in paid nonwork status shall be hours of work. It also said that overtime for nonexempt employees would be computed only under the FLSA.

## 3. Abbreviations

CFR	-	Code of Federal Regulations
COLA	-	Cost of Living Allowance
DPM	-	Departmental Personnel Manual
FEPCA	-	Federal Employees Pay Comparability Act
FLSA	-	Fair Labor Standards Act
FT	-	Full Time Tour of Duty
FWS	-	Federal Wage System
GS/GM	-	General Schedule
LWOP	-	Leave Without Pay
NFC	-	National Finance Center
OPM	-	Office of Personnel Management
PC-TARE	-	Personal Computer Time and Attendance Remote Entry System
PT	-	Part Time Tour of Duty
SES	-	Senior Executive Service
T&A	-	Time and Attendance
TC	-	Transaction Code (NFC T&A designation)
U.S.C.	-	United States Code

WG - Wage Grade

## 4. Forms

ARS-331 - Time and Attendance Log  
AD-332 - Position Description Cover Sheet  
PC-TARE Printout

## 5. Authorities

5 CFR 550 and 551  
5 U.S.C. 5343  
5 U.S.C. 5542-5546  
5 U.S.C. 6103  
DPM 550.1  
FEPCA of 1990, Section 210  
FLSA of 1938, as amended  
FPM SU 920-1 56

## 6. Definitions

**Administrative Workweek** is a period of 7 consecutive calendar days set by the Secretary of Agriculture as beginning on Sunday at 12:01 a.m. and ending the following Saturday at midnight.

**Authorizing Official** is the individual who has delegated authority to approve overtime and compensatory time.

**Basic Work Requirement** (Under ARS standard schedule) is the master schedule as shown on the ARS-331. The master schedule is the schedule of working hours which an employee is required to account for by leave or otherwise. For FT employees, it is the 80 hours in the biweekly period that fit within the hours of 6 a.m. to 6 p.m. For PT employees, it is the number of scheduled hours in the biweekly period which fit within the hours of 6 a.m. to 6 p.m.

**Basic Workweek** (Under ARS nonstandard schedule) - The 40-hour workweek established for FT employees and the officially prescribed days and hours within the administrative workweek which do not extend over more than 6 of any 7 consecutive days.

**Callback Overtime** is a period of unscheduled overtime performed by an employee (a) on a day when

no work was scheduled for that employee or (b) for which the employee is required to return to the place of employment. Callback overtime is not applicable when the early reporting for duty merges with and continues into or immediately after the regularly scheduled tour of duty.

**Compensatory Time** is paid absence from duty taken by an employee in lieu of monetary payment for an equivalent amount of irregular or unscheduled overtime worked.

NOTE: Compensatory time may not be requested in lieu of regularly scheduled overtime.

**Cost of Living Allowances** are those allowances and differentials authorized to be paid in consideration of relative living **cost** differences between an area covered and the Washington, D.C., area. They are established by OPM in designated nonforeign areas that take into consideration the living conditions of persons employed in the area, the difference in goods and services available, and the relative consumer price levels.

**Credit Hours**, under maxiflex, are all the hours in excess of the employee's basic work requirement which the employee elects to work and the supervisor approves.

**Excludable Payments** are the payments excluded in computing an employee's FLSA overtime benefits such as cash awards, travel and per diem, remote work site allowances, uniform allowances, and callback overtime for hours not worked.

**Exempt Employees** are those employees not covered by the overtime and minimum wage provisions of the FLSA. For example and in general, all research scientists are exempt. This coverage decision rests with the classifier of the position, and is reflected on the AD-332 and in the NFC data base.

**First-40 Hour Employees** are those employees in a professional or support technician position in the physical, mathematical, natural, medical, or social sciences or engineering or architecture for whom the first-40 hours of duty in the administrative workweek is the basic workweek.

**FWS Employees** are those employees employed in a recognized trade or craft including a foreman and a supervisor having trade, craft, or labor, experience as the paramount requirement. FWS employees are prevailing rate employees.

**Funeral Leave** is leave that can be taken for memorial services for an immediate relative of a deceased Armed Service member. It is considered hours of work in a paid nonwork status.

**Hours of Work** in a Paid Nonwork Status - Following are examples of this status covering both exempt and nonexempt employees: annual and sick leave; court, military, and funeral leave; excused absence/administrative leave; pay for a holiday where no work is performed; compensatory time off; continuation of pay; and credit hours (when taken).

**Hours of Work That Are Not Daily Overtime Hours** - Suffered or permitted overtime work and travel away from the official duty station to a controllable event during corresponding hours are not subject to the 8-hour daily overtime standard. For prevailing rate employees, hours within the confines of the post of duty in a standby or on-call status are also not subject to the 8-hour daily overtime standard. They are subject to the weekly overtime standard.

**Includable Payments** are the payments included in computing an employee's FLSA overtime benefits such as all differentials, Sunday premium pay, and COLA's.

**Irregular or Unscheduled Overtime Hours** are approved overtime hours which are not part of the regularly scheduled administrative workweek.

**Master Schedule**, under maxiflex, is the schedule of working hours which an employee is required to account for by leave or otherwise. It equates to the basic work requirement.

**Nonexempt Employees** are those employees covered by the overtime and minimum wage provisions of the FLSA. For example and in general, all nonsupervisory clerical and technical employees up through the GS-9 level are nonexempt. This coverage decision rests with the classifier of the position, and is reflected on the AD-332 and the NFC data base.

**Nonstandard Schedules** establish work on Saturday, Sunday, or nights as a regular part of the schedule.

**Overtime** is all hours in excess of 8 in a day or 40 in a week which are officially ordered in advance by management, and is in addition to completion of the master schedule.

**Premium Pay** is pay in addition to an employee's base salary as a result of working overtime, at night, on a holiday, on a Sunday, or on standby duty.

NOTE: SES members are excluded from all premium pay including compensatory time.

**Regularly Scheduled Overtime** is hours scheduled in advance of the master schedule, if on a standard tour, or in advance of the administrative workweek, if on a nonstandard tour.

**Regularly Scheduled Work** is specific as to the employee, day, hour, and time to be worked and is scheduled no later than midnight Saturday of the week before it is to be performed.

**Religious Compensatory Time** - Time off, accumulated for religious observance. Compensatory Time Used (TC 60) may be incurred at the time of the event and used before Compensatory Time is worked (TC 32).

**Schedule** - The time allowed for government work planned in sequential order. In ARS the standard schedule is the maxiflex alternative work schedule covered by DIRECTIVE 402.2.

**Standby Duty** - A semiduty status under Title 5 only, wherein the employee is not required to perform actual work and is free to eat, sleep, read, or engage in other similar pursuits while regularly remaining at, or within the confines of his/her station.

**Straight Time** is the number of hours established as standard for a specific work period. It can also be the rate of pay established for the period as distinguished from overtime.

**Suffered or Permitted Overtime** - Under the FLSA, applies to those employees with nonstandard tours of duty. Any work performed by an employee for the benefit of an agency, whether requested or not, provided the employee's supervisor knows or has reason to believe that the work is being performed and has an opportunity to prevent the work from being performed.

**Title 5 of the U.S.C.** - That part of the United States Code dealing with government organization and employees.

**Tour of Duty (Under ARS nonstandard schedule)** - The hours of a day and the days of the administrative workweek that constitute the period an employee is regularly scheduled to work.

**Tour of Duty (Under ARS standard schedule)** - The hours and days for which core time bands and credit hour periods have been designated.

## 7. Delegations of Authority

Authority for approval of overtime, and consequently compensatory time, is delegated to the Area Directors and Staff/Division Directors or Office Heads in Headquarters. This authority may be redelegated. If so redelegated, it must be in writing.

## 8. Responsibilities

**Area Directors and Staff/Division Directors or Office Heads in Headquarters** are responsible for delegating the premium pay responsibilities in writing to those authorizing officials they wish to exercise this responsibility.

**Supervisors** are responsible for:

- Ensuring that nonexempt employees do not perform overtime work if the supervisor does not

want overtime work performed.

- Documenting the reasons why employees are required to travel on their own time when such is the case.
- Scheduling the annual leave and compensatory time of employees under their supervision to ensure that compensatory time is used in accordance with section I 2.
- Keeping accurate records of the hours worked by all their employees. This includes the written requests for compensatory time. All T&A records will be kept for at least 3 years from the end of the calendar year during which the entitlement is incurred. In a problem case they should be kept 6 years.

**Location Administrative Officers and Area Personnel Assistants** are responsible for providing timekeepers and alternates with personnel information relating to overtime, tours of duty, type of employment, etc., necessary to complete the T&A's.

**Authorizing Officials** are responsible for:

- Approving the use of irregular or unscheduled overtime.
- Granting the substitution of compensatory time for overtime.
- Determining whether GS/GM employees whose basic rate of pay exceeds GS-10/10 will be required to take compensatory time in lieu of receiving overtime pay.

**Employees** are responsible for requesting, in writing, compensatory time in lieu of overtime in advance of performing the work.

## 9. Overtime/Compensatory Time Pay

### Entitlement

- **All Employees** are paid overtime/compensatory time under either Title 5 or FLSA for all hours worked in excess of 8 hours a day or 40 hours a week that are in addition to completion of the master schedule. Such overtime/compensatory time must be ordered in advance or approved by the authorizing official.
- All maxiflex employees are entitled to make a written request of compensatory time for overtime,

however GS/GM employees, whose basic rate of pay exceeds GS 10/10, may be required by the authorizing official to take compensatory time in lieu of monetary payment for irregular overtime.

- COMPENSATORY TIME MAY NOT BE TAKEN FOR REGULARLY SCHEDULED OVERTIME.
- Intermittent employees are never entitled to compensatory time.

## **Authorization**

- Overtime is approved in writing by the initials of the employee and the signature of an authorized official in the 'SUPER.' block of the PC-TARE printout. In addition the supervisor's and the employee's initials may be required on the ARS-331.
- Compensatory time must be used before annual leave, except in those situations where it would cause the loss of annual leave.
- Where the use of compensatory time has resulted or will result in the forfeiture of annual leave, annual leave may be substituted for compensatory time. In any case where annual leave is substituted for compensatory time, the resulting credit of compensatory time must be used by the end of the leave year following the year in which it was credited, or it must be paid.

## **Computation**

- GS/GM employees whose straight time rate of pay exceeds GS-10/1 are compensated at 1 and 1/2 times the straight time rate of pay for GS-10/1. GS/GM employees whose straight time rate of pay is GS-10/1 or less are compensated at 1 and 1/2 times their straight time rate of pay.
- The amount of compensation received by a GS/GM exempt employee cannot cause the aggregate rate of pay in any one period to exceed the maximum rate for GS-15/10.

NOTE: This maximum limitation on an employee's aggregate rate of pay does not apply to overtime pay for nonexempt employees.

- Overtime and compensatory time are to be earned in 15-minute increments. A quarter of an hour shall be the minimum increment of time used for crediting irregular or occasional overtime work. When irregular or occasional overtime work is performed in other than the full fraction, odd minutes shall be rounded up or rounded down to the nearest full 15-minute increment.

NOTE: LWOP hours are not counted toward the biweekly 80-hour standard. For example, if

LWOP hours are less than overtime hours which occur within the same pay period, the LWOP hours are subtracted from the overtime becoming basic work time. The remaining hours are recorded as overtime. Likewise, if the LWOP hours are greater than overtime hours which occur within the same pay period, the overtime hours are subtracted from the LWOP and become regular work time.

- For the purposes of compensation, callback overtime is at least 2 hours in duration even though the employee may not work the full 2 hours.

NOTE: Callback overtime only applies to irregular scheduling. Regularly scheduled overtime work may not be callback overtime.

- Any compensatory time not used before the end of the leave year following the year in which it was earned shall be paid at the overtime rate at which it was earned.
- If an employee with compensatory time is transferred or separated from ARS, the employee will be paid at the overtime rate in effect at the time the compensatory time was worked. Injured employees on Continuation of Pay who were regularly or irregularly scheduled for overtime work do not receive payment for that overtime.

### **First-40 hour Appointments (Scientists and Technicians only)**

- GS/GM exempt employees whose tour of duty consists of the first-40 hours worked in an administrative workweek are entitled to overtime for hours worked in excess of 40 hours in a week that is officially ordered or approved.
- All first-40 hour tours are considered to be regularly scheduled. The overtime which employees on a first-40 hour tour may work is always considered regularly scheduled overtime.
- Since compensatory time may not be granted in lieu of overtime for any regularly scheduled overtime, first-40 hour employees who are entitled to overtime must be paid overtime.
- EXEMPT first-40 hour employees who work over 8 hours in a day are not entitled to overtime until they have exceeded 40 hours.
- ALL NONEXEMPT FIRST-40 HOUR EMPLOYEES WHO WORK OVER 8 HOURS IN A DAY ARE PAID OVERTIME.

### **FWS Employees**

- FWS employees on nonstandard tours may not be granted compensatory time off. They must be

paid overtime.

- All FWS employees, under maxiflex, may take compensatory time only if they request it in writing and it is approved by the authorizing official.
- No FWS employees may be put on a first-40 tour of duty.
- Overtime for FWS employees having a rotational tour of duty which includes two or three shifts is computed on the rate of the employee's regularly scheduled shift in effect for the calendar day on which the overtime work is performed. When the overtime work is performed on a nonworkday, overtime pay is computed on the average rate of basic pay for all regularly scheduled shifts worked by the employee during the basic workweek.

## **10. SUMMARY OF WHAT IS INCLUDED IN OVERTIME COMPENSATION**

<b>Situation</b>	<b>FLSA</b>	<b>Title 5</b>
Hours actually worked	Yes	Yes
Hours-in paid leave status	Yes	Yes
Hours administratively excused	Yes	Yes
Hours during which employee is required to remain at work site.	Yes	Yes
Hours where ordered or approved.	Yes	Yes
Hours where suffered or permitted to work.	Yes	No
All COLA's, environmental, and post differentials.	Yes	No

## **11. NIGHT DIFFERENTIAL**

There is no night differential under the ARS maxiflex schedule. Night differential can only be paid when night work is regularly scheduled. If night work is a regular and recurring requirement, the

employee must be put on a nonstandard schedule. (See DIRECTIVE 402.1.)

All work performed by an employee under a first-40 hour tour of duty is considered regularly scheduled work; thus the employee is entitled to a night differential.

## **GS/GM Employees**

- GS/GM employees are entitled to be paid for night work at their straight time rate plus premium pay amounting to 10 percent of that straight time rate of the scheduled hours worked between 6 p.m. and 6 a.m.
- GS/GM employees are entitled to a night differential:
  - When they are assigned (overtime or nonovertime) regularly scheduled hours,
  - When they are temporarily assigned to a daily tour of duty that includes night work. This temporary change in a daily tour of duty within an employee's regularly scheduled administrative workweek is distinguished from a period of irregular or occasional overtime work in addition to the employee's regularly scheduled administrative workweek.
- Night differential is not payable for periods of leave unless:
  - The amount of leave taken in the entire pay period is less than 8 hours,
  - The employee is absent because of jury duty, or
  - The employee is absent because of military leave.
- Night differential is payable for absence due to holidays and for night hours of duty while in an official travel status, whether performing actual duty or not.
- Night differential is in addition to overtime, Sunday, or holiday pay.

## **FWS Employees**

FWS employees are entitled to night differential for the entire shift, if the majority of hours fall between 3 p.m. and 8 a.m.

- If the majority of hours fall between 3 p.m. and 12 midnight, the differential is 7-1/2 percent of the scheduled rate of pay.
- If the majority of hours fall between 11 p.m. and 8 a.m., the differential is 10 percent of the scheduled rate of pay.

## **12. HOLIDAY PAY**

Employees who perform work on a holiday during their basic work agreement are entitled to pay as follows:

- Full-time employees are entitled to the straight time rate of pay for 8 hours. They also receive premium pay equal to that straight time rate of pay for all hours of work, not exceeding 8, which fall within their basic work requirement.
- Part-time employees are entitled to the straight time rate of pay for their scheduled hours. They also receive premium pay equal to that straight time rate of pay for all hours of work, not exceeding 8, which they performed within their basic work requirement.
- Intermittent employees are entitled only to the straight time rate of pay for hours worked on a holiday.
- An employee assigned to duty on a holiday is entitled to a minimum of 2 hours of premium pay.
- Premium pay for holiday work is in addition to night shift differentials, environmental differentials, hazardous duty pay, and premium pay for Sunday work.
- Work outside the basic work requirement is compensable under the overtime regulations.

## **13. SUNDAY PREMIUM PAY**

There is no Sunday premium pay under the ARS maxiflex schedule. Such pay can only exist for Sunday work that is regularly scheduled. If Sunday work is a regular and recurring requirement, the employee must be put on a nonstandard schedule. (See DIRECTIVE 402.1.)

Part-time and intermittent employees are not entitled to premium pay for Sunday work.

Full-time employees on such nonstandard schedules are entitled to a premium pay of 25 percent of the rate of basic pay for each nonovertime hour worked. Such tours must begin or end between midnight Saturday or midnight Sunday.

Employees having two such tours receive Sunday premium pay for a maximum of 16 hours.

Such employees whose regularly scheduled daily tour of duty exceed 8 hours are not entitled to the 25 percent Sunday premium pay for the hours worked in excess of 8. Such excessive hours are

compensated by overtime/compensatory time.

An employee who performs unscheduled work on a Sunday is not entitled to Sunday premium pay.

An employee is not entitled to the 25 percent Sunday premium pay for hours of leave during a Sunday unless that leave is military leave.

All work performed by an employee within a first-40 hour tour of duty is considered regularly scheduled work for Sunday pay purposes; thus the employee is entitled to a Sunday differential.

Sunday premium pay may be in addition to night shift differentials, environmental differentials, hazardous duty pay, and premium pay for work on a holiday.

R. D. Plowman  
Administrator